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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,661	06/04/2001	Michael J. Wengler	010069	5763
23696	7590	05/05/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			BURD, KEVIN MICHAEL	
			ART UNIT	PAPER NUMBER
			2631	

DATE MAILED: 05/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/874,661	<b>Applicant(s)</b> WENGLER, MICHAEL J.	
	<b>Examiner</b> Kevin M. Burd	<b>Art Unit</b> 2631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-39.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

KEVIN BURD  
 PRIMARY EXAMINER

*Kevin M. Burd*

### ***Response to Arguments***

1. Applicant's arguments received 4/18/2005 have been fully considered but they are not persuasive. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., using the complex signals that are output from the two antennas, an estimate of the complex covariance matrix R is made) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant uses this argument for all of the claims. For this reason the rejection of the claims are maintained.
2. Applicant has amended claims 32-37 and 39 to include the "including amplitude and phase" limitation that is recited in the other independent claims. These newly amended claims will be rejected as follows:

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 32-34, 37 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhang (US 6,369,758).

Regarding claims 32, 34 and 39, Zhang discloses a receiver comprising a multi-element antenna (figure 1) configured to receive signals from at least one transmitter and to output highly correlated signals from the transmitters. The signals will be "highly correlated" because the antennas are located at some distance apart and this distance will provide a correlation between the signals. This correlation value is a "highly correlated" value. A controller is configured to receive the signals and combine the signals to reproduce the selected signal (column 4, lines 6-18). The controller includes a timing controller 20 and an adaptive antenna array controller 22 as shown in figure 1. "The timing controller 20 includes M complex data buffers (one complex data buffer for each of the M antenna branches) with a timing pointer that points to the beginning of an current OFDM or training symbol and that is controlled by the phase locked loop controller 32 (PLL), enabling a precise symbol by symbol output of the timing controller 20. Using methods known in the art, the phase locked loop controller 32 checks the timing error and makes a proper adjustment on the timing controller 20 (timing pointer)." (column 4, lines 18-28). This shows the phase of each signal in each antenna branch is known. The amplitude is adjusted by using the weights in the adaptive antenna array controller 22 (column 5, lines 15-25). Therefore, Zhang discloses determining a "spatial signature" including the amplitude and phase for each signal.

Regarding claim 33, the array in figure 1 contains 2 to M antennas.

Regarding claim 37, Zhang discloses the receiver can be used in non-OFDM systems (column 18, lines 14-17) such as CDMA.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang (US 6,369,758) further in view of Richard (US 5,901,174).

Regarding claim 35, Zhang discloses the system stated above in paragraph 3. Zhang does not disclose the signals are combined using an optimal combiner. Richard discloses receiving signals via multiple channels and using an optimal combiner. This maximizes the signal to noise ratio and minimizes error signals (column 8, lines 7-10). For this reason, it would have been obvious for one of ordinary skill in the art at the time of the invention to utilize the optimal combiner of Richard in the system and method of Zhang.

5. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhang (US 6,369,758) in view of Maruta et al (US 6,205,166)

Regarding claim 36, Zhang discloses a receiver stated above in paragraph 3. Zhang does not disclose the combiner is a maximal ratio combiner. Maruta discloses the channels are maximum-ratio combined in adder 8 (column 3, lines 46-50). This maximizes the desired signal amplitude and minimizes the error signals. Therefore, it


would have been obvious for one of ordinary skill in the art at the time of the invention to utilize the maximum ratio combiner of Maruta in the receiver system of Zhang.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-3008. The examiner can normally be reached on Monday - Thursday 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kevin M. Burd  
5/3/2005

**KEVIN BURD**  
**PRIMARY EXAMINER**